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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE:

[Redacted]

Office: KANSAS CITY, MO Date:

MAY 27 2004

IN RE:

Obligor:

Bonded Alien:

[Redacted]

IMMIGRATION BOND:

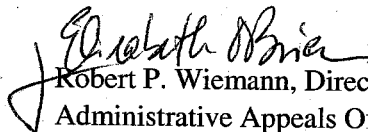
Bond Conditioned for Voluntary Departure under § 240B of the Immigration
and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Kansas City, Missouri, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on November 1, 2001, the obligor posted a \$1,000.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated October 25, 2001, was issued granting the alien voluntary departure in lieu of removal on or before December 25, 2001. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On February 10, 2003, the BIA affirmed, without opinion, the IJ's decision and granted the alien voluntary departure within 30 days from the date of the order. On March 7, 2003, the alien requested an extension of his voluntary departure, which was granted until April 10, 2003 by the field office director. On April 16, 2003, the alien filed a motion to reopen the removal proceedings, which was denied by the BIA on June 13, 2003. On April 23, 2003, the alien filed an Application for Stay of Deportation or Removal, which was denied by the field office director on July 22, 2003. On July 28, 2003, the field office director concluded the bond had been breached.

On appeal, counsel asserts that the bonded alien believed that he had a pending motion to reopen which would result in the order of deportation being vacated. Counsel claims that he did not receive notice that the alien's motion to reopen had been denied, and therefore the alien was unaware of the BIA final decision.

The record reflects that the alien filed a subsequent motion to reopen. On December 11, 2003, the BIA returned the record to the immigration court, without further action, as the record reflected that the alien was removed from the United States subsequent to filing the subsequent motion. Such action constitutes a withdrawal of said motion. *See* 8 C.F.R. § 1003.2(d).

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of timely departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for ICE to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field director will not be disturbed.

ORDER: The appeal is dismissed.